

ASSEMBLY BILL

No. 1702

Introduced by Assembly Member Frommer

February 22, 2005

An act to amend Section 65583 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1702, as introduced, Frommer. Housing: use by right.

The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would define the phrase “use by right” to mean use that does not require a conditional use permit or other discretionary permit for a planned unit development, except as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 65583 of the Government Code is
- 2 amended to read:
- 3 65583. The housing element shall consist of an identification
- 4 and analysis of existing and projected housing needs and a

1 statement of goals, policies, quantified objectives, financial
2 resources, and scheduled programs for the preservation,
3 improvement, and development of housing. The housing element
4 shall identify adequate sites for housing, including rental
5 housing, factory-built housing, and mobilehomes, and shall make
6 adequate provision for the existing and projected needs of all
7 economic segments of the community. The element shall contain
8 all of the following:

9 (a) An assessment of housing needs and an inventory of
10 resources and constraints relevant to the meeting of these needs.
11 The assessment and inventory shall include all of the following:

12 (1) An analysis of population and employment trends and
13 documentation of projections and a quantification of the
14 locality's existing and projected housing needs for all income
15 levels. These existing and projected needs shall include the
16 locality's share of the regional housing need in accordance with
17 Section 65584.

18 (2) An analysis and documentation of household
19 characteristics, including level of payment compared to ability to
20 pay, housing characteristics, including overcrowding, and
21 housing stock condition.

22 (3) An inventory of land suitable for residential development,
23 including vacant sites and sites having potential for
24 redevelopment, and an analysis of the relationship of zoning and
25 public facilities and services to these sites.

26 (4) An analysis of potential and actual governmental
27 constraints upon the maintenance, improvement, or development
28 of housing for all income levels and for persons with disabilities
29 as identified in the analysis pursuant to paragraph (6), including
30 land use controls, building codes and their enforcement, site
31 improvements, fees and other exactions required of developers,
32 and local processing and permit procedures. The analysis shall
33 also demonstrate local efforts to remove governmental
34 constraints that hinder the locality from meeting its share of the
35 regional housing need in accordance with Section 65584 and
36 from meeting the need for housing for persons with disabilities
37 identified pursuant to paragraph (6).

38 (5) An analysis of potential and actual nongovernmental
39 constraints upon the maintenance, improvement, or development

1 of housing for all income levels, including the availability of
2 financing, the price of land, and the cost of construction.

3 (6) An analysis of any special housing needs, such as those of
4 the elderly, persons with disabilities, large families, farmworkers,
5 families with female heads of households, and families and
6 persons in need of emergency shelter.

7 (7) An analysis of opportunities for energy conservation with
8 respect to residential development.

9 (8) An analysis of existing assisted housing developments that
10 are eligible to change from low-income housing uses during the
11 next 10 years due to termination of subsidy contracts, mortgage
12 prepayment, or expiration of restrictions on use. "Assisted
13 housing developments," for the purpose of this section, shall
14 mean multifamily rental housing that receives governmental
15 assistance under federal programs listed in subdivision (a) of
16 Section 65863.10, state and local multifamily revenue bond
17 programs, local redevelopment programs, the federal Community
18 Development Block Grant Program, or local in-lieu fees.
19 "Assisted housing developments" shall also include multifamily
20 rental units that were developed pursuant to a local inclusionary
21 housing program or used to qualify for a density bonus pursuant
22 to Section 65916.

23 (A) The analysis shall include a listing of each development
24 by project name and address, the type of governmental assistance
25 received, the earliest possible date of change from low-income
26 use and the total number of elderly and nonelderly units that
27 could be lost from the locality's low-income housing stock in
28 each year during the 10-year period. For purposes of state and
29 federally funded projects, the analysis required by this
30 subparagraph need only contain information available on a
31 statewide basis.

32 (B) The analysis shall estimate the total cost of producing new
33 rental housing that is comparable in size and rent levels, to
34 replace the units that could change from low-income use, and an
35 estimated cost of preserving the assisted housing developments.
36 This cost analysis for replacement housing may be done
37 aggregately for each five-year period and does not have to
38 contain a project-by-project cost estimate.

39 (C) The analysis shall identify public and private nonprofit
40 corporations known to the local government which have legal

1 and managerial capacity to acquire and manage these housing
2 developments.

3 (D) The analysis shall identify and consider the use of all
4 federal, state, and local financing and subsidy programs which
5 can be used to preserve, for lower income households, the
6 assisted housing developments, identified in this paragraph,
7 including, but not limited to, federal Community Development
8 Block Grant Program funds, tax increment funds received by a
9 redevelopment agency of the community, and administrative fees
10 received by a housing authority operating within the community.
11 In considering the use of these financing and subsidy programs,
12 the analysis shall identify the amounts of funds under each
13 available program which have not been legally obligated for
14 other purposes and which could be available for use in preserving
15 assisted housing developments.

16 (b) (1) A statement of the community's goals, quantified
17 objectives, and policies relative to the maintenance, preservation,
18 improvement, and development of housing.

19 (2) It is recognized that the total housing needs identified
20 pursuant to subdivision (a) may exceed available resources and
21 the community's ability to satisfy this need within the content of
22 the general plan requirements outlined in Article 5 (commencing
23 with Section 65300). Under these circumstances, the quantified
24 objectives need not be identical to the total housing needs. The
25 quantified objectives shall establish the maximum number of
26 housing units by income category that can be constructed,
27 rehabilitated, and conserved over a five-year time period.

28 (c) A program which sets forth a five-year schedule of actions
29 the local government is undertaking or intends to undertake to
30 implement the policies and achieve the goals and objectives of
31 the housing element through the administration of land use and
32 development controls, provision of regulatory concessions and
33 incentives, and the utilization of appropriate federal and state
34 financing and subsidy programs when available and the
35 utilization of moneys in a low- and moderate-income housing
36 fund of an agency if the locality has established a redevelopment
37 project area pursuant to the Community Redevelopment Law
38 (Division 24 (commencing with Section 33000) of the Health and
39 Safety Code). In order to make adequate provision for the

1 housing needs of all economic segments of the community, the
2 program shall do all of the following:

3 (1) Identify actions that will be taken to make sites available
4 during the planning period of the general plan with appropriate
5 zoning and development standards and with services and
6 facilities to accommodate that portion of the city's or county's
7 share of the regional housing need for each income level that
8 could not be accommodated on sites identified in the inventory
9 completed pursuant to paragraph (3) of subdivision (a) without
10 rezoning. Sites shall be identified as needed to facilitate and
11 encourage the development of a variety of types of housing for
12 all income levels, including multifamily rental housing,
13 factory-built housing, mobilehomes, housing for agricultural
14 employees, emergency shelters, and transitional housing.

15 (A) Where the inventory of sites, pursuant to paragraph (3) of
16 subdivision (a), does not identify adequate sites to accommodate
17 the need for groups of all household income levels pursuant to
18 Section 65584, the program shall identify sites that can be
19 developed for housing within the planning period pursuant to
20 subdivision (h) of Section 65583.2.

21 (B) Where the inventory of sites pursuant to paragraph (3) of
22 subdivision (a) does not identify adequate sites to accommodate
23 the need for farmworker housing, the program shall provide for
24 sufficient sites to meet the need with zoning that permits
25 farmworker housing use by right, including density and
26 development standards that could accommodate and facilitate the
27 feasibility of the development of farmworker housing for low-
28 and very low income households. *For purposes of this*
29 *paragraph, the phrase "use by right" shall mean the use does*
30 *not require a conditional use permit or other discretionary*
31 *permit for a planned unit development, except when the proposed*
32 *development project is a mixed-use project involving both*
33 *commercial or industrial uses and residential uses. Use by right*
34 *for all rental multifamily residential housing shall be provided in*
35 *accordance with subdivision (f) of Section 65589.5.*

36 (2) Assist in the development of adequate housing to meet the
37 needs of low- and moderate-income households.

38 (3) Address and, where appropriate and legally possible,
39 remove governmental constraints to the maintenance,
40 improvement, and development of housing, including housing for

1 all income levels and housing for persons with disabilities. The
2 program shall remove constraints to, or provide reasonable
3 accommodations for housing designed for, intended for
4 occupancy by, or with supportive services for, persons with
5 disabilities.

6 (4) Conserve and improve the condition of the existing
7 affordable housing stock, which may include addressing ways to
8 mitigate the loss of dwelling units demolished by public or
9 private action.

10 (5) Promote housing opportunities for all persons regardless of
11 race, religion, sex, marital status, ancestry, national origin, color,
12 familial status, or disability.

13 (6) (A) Preserve for lower income households the assisted
14 housing developments identified pursuant to paragraph (8) of
15 subdivision (a). The program for preservation of the assisted
16 housing developments shall utilize, to the extent necessary, all
17 available federal, state, and local financing and subsidy programs
18 identified in paragraph (8) of subdivision (a), except where a
19 community has other urgent needs for which alternative funding
20 sources are not available. The program may include strategies
21 that involve local regulation and technical assistance.

22 (B) The program shall include an identification of the agencies
23 and officials responsible for the implementation of the various
24 actions and the means by which consistency will be achieved
25 with other general plan elements and community goals. The local
26 government shall make a diligent effort to achieve public
27 participation of all economic segments of the community in the
28 development of the housing element, and the program shall
29 describe this effort.

30 (d) The analysis and program for preserving assisted housing
31 developments required by the amendments to this section enacted
32 by the Statutes of 1989 shall be adopted as an amendment to the
33 housing element by July 1, 1992.

34 (e) Failure of the department to review and report its findings
35 pursuant to Section 65585 to the local government between July
36 1, 1992, and the next periodic review and revision required by
37 Section 65588, concerning the housing element amendment
38 required by the amendments to this section by the Statutes of
39 1989, shall not be used as a basis for allocation or denial of any
40 housing assistance administered pursuant to Part 2 (commencing

1 with Section 50400) of Division 31 of the Health and Safety
2 Code.

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